IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1865 OF 2003

Ms.Poonam P. Bhosale for the Petitioner.

Mr.Tejash Deshmukh for the Respondents.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 20TH APRIL,2005

P.C.:

Rule. Returnable forthwith. Heard finally by consent of parties.

1. By this petition the Petitioner challenges the order passed by the Appellate Court declining to condone the delay in making an application for restoration of Misc.Civil Appeal No.213 of 1993.

2. I have heard the learned Counsel for both sides. It is true that though the cause that has been shown

by the Petitioner for condonation of delay is not convincing, but fact remains that the power of the court to condone the delay is to be liberally exercised. No doubt liberal exercise of the power to condone the delay results in causing prejudice to the other side. Prejudice that is caused to the other side is capable of being mitigated by paying substantial costs. The learned Counsel for the Petitioner has stated before me that the Petitioner is willing to pay Rs.10,000/- as costs in case the delay is condoned. In my opinion, in these circumstances, following order would meet the ends of justice.

O R D E R

The order impugned in the petition is set aside. Delay in filing the application for restoration of the application filed for restoration of the Misc.Civil Appeal No.213 of 1993 pending before the Addl.District Judge, Kolhapur is condoned. The Application for restoration of

Misc.Civil Appeal No.213 of 1993 is restored to file, subject to the condition that within six weeks from today the Petitioner pays to the Respondent No.1 an amount of Rs.10,000/- as and by way of costs of this petition. Failure of the Petitioner to pay costs within the aforesaid period will result in dismissal of this petition without any reference to the Court. Petition disposed of.

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